



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Date: JUL 16 2001

Contact Person: [REDACTED]

Identification Number: [REDACTED]

Contact Number: [REDACTED]

Employer Identification Number: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

You were incorporated on [REDACTED], under the nonprofit corporation laws of the State of [REDACTED]. Your Articles of Incorporation state your purposes as follows:

1. Educate and inform Americans about the [REDACTED] and modern [REDACTED];
2. Develop [REDACTED] American relationships and promote [REDACTED] as a place for U.S. interests in [REDACTED];
3. Provide a focal point for [REDACTED] members in the U.S.A. and keep them informed of upcoming events by means of a monthly newsletter and website; and
4. Raise funds for these activities from membership fees, donations and selling merchandise.

You are a membership organization. Your brochure on membership states that you are an autonomous organization, operating in partnership with the [REDACTED] ([REDACTED]), seeking to educate the American public about [REDACTED] and the [REDACTED]. Membership does not affect the right to join the [REDACTED] as an HQ or a Branch member if eligible under current electoral law. That law allows overseas registration for [REDACTED] citizens who have been on the electoral roll at some point in the last 20 years (now 10 years under the recently enacted law).

Your brochure on membership further states that you pledge to uphold the [REDACTED], which guidelines bar foreign nationals and [REDACTED] citizens residing

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outside the [REDACTED] and not on the electoral roll from donating to and holding memberships in [REDACTED] political parties. Only persons with the right to vote in the [REDACTED] may contribute directly to the [REDACTED]. Supporters who have no vote in the [REDACTED] are asked to contribute to you, the [REDACTED], income from which is retained in [REDACTED] to support awareness-raising about [REDACTED] and the [REDACTED].

The [REDACTED] is a political party in [REDACTED] founded in [REDACTED]. It participates in the general election of members of the country's parliament and in other elections of local officials in [REDACTED]. In [REDACTED], the country approved the establishment of a separate [REDACTED] parliament in the country's legislative branch whose members were elected on [REDACTED] and [REDACTED] form part of the [REDACTED] and with [REDACTED] constitute the country officially known as the United Kingdom of Great Britain and Northern [REDACTED], commonly known as the [REDACTED]. The major political parties, [REDACTED], are the [REDACTED], [REDACTED], and [REDACTED] with other political parties established in [REDACTED] and [REDACTED].

Your activities consist of sponsoring the annual celebration of the [REDACTED] and visits of [REDACTED] leaders to the United States, the dissemination of [REDACTED] overseas voter forms, and publication of a newsletter.

The annual celebration of the [REDACTED] is held every [REDACTED]. In [REDACTED], the U.S. Senate passed [REDACTED] recognizing [REDACTED] as [REDACTED] to recognize the role and influence of the [REDACTED] and Americans of [REDACTED] descent in the development of the United States. The [REDACTED] one-day celebration was held in [REDACTED], and the [REDACTED] celebration was held in [REDACTED]. Both were attended by the [REDACTED] leaders under your auspices.

You also sponsor official trips of the [REDACTED] leaders in the United States. You arrange their meetings with [REDACTED] supporters, government agencies and media, as well as their speeches and lectures at various universities, colleges and groups to promote the [REDACTED] and its advocacy of [REDACTED] independence.

You publish a monthly newsletter that contains articles primarily concerning the [REDACTED] your support of the [REDACTED] and its candidates for public office, and the political scene. Each newsletter contains the following statement appearing at the end of the front page:

This document is being distributed by the US Legal Rep of [REDACTED], an attorney at [REDACTED]. Because the [REDACTED] is a foreign entity, [REDACTED] is registered with the DoJ as an agent of such foreign principal. Copies of this document are being filed with the DoJ, and copies of the registration for [REDACTED] are available for public inspection at the DoJ. Registration does not indicate approval of this material by the US government.

You distribute the newsletter and the overseas voter forms at your annual celebration event. Your newsletter is electronically produced and accessible through your website.

You maintain a website that contains information concerning your organization and the [REDACTED]. Your website proclaims "VOTE (with logo) [REDACTED]" and provides a hyperlink to the [REDACTED] website.

Section 501(c)(3) of the Code provides for the exemption of organizations that are organized and operated exclusively for religious, charitable, or educational purposes, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(3)(i) of the regulations provides that an organization is not operated exclusively for one or more exempt purposes if it is an "action" organization.

Section 1.501(c)(3)-1(c)(3)(iii) of the regulations defines an "action" organization as an organization that participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. The term "candidate for public office" means an individual who offers himself, or is proposed by others, as a contestant for an elective public office, whether such office is national, state, or local. Activities which constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written or printed statements or the making of oral statements on behalf of or in opposition to such a candidate.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interest.

In *Better Business Bureau of Washington, D.C., Inc. v. United States*, 326 U. S. 279 (1945), the Supreme Court of the United States interpreted the requirement in section 501(c)(3) that an organization be "operated exclusively" by indicating that in order to fall within the claimed exemption, an organization must be devoted to exempt purposes exclusively. This plainly means that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number and importance of truly exempt purposes.

In *United States v. Dykema*, 666 F.2d. 1096, 1101 (7th Cir. 1981), cert. denied, 456 U.S. 983 (1982), the Seventh Circuit stated:

It should be noted that exemption is lost...by participation in any political campaign on behalf of any candidate for public office. It need not form a substantial part of the organization's activities.

The information provided indicates that you engage primarily in promoting the SNP, a political party, by generating public support for its positions and its leaders. We find that activity to be a non-exempt activity. By engaging in substantial activities not in furtherance of an exempt purpose described in section 501(c)(3) of the Code, you are not operated exclusively for an exempt purpose pursuant to section 1.501(c)(3)-1(c)(1) of the regulations. See also *Better Business Bureau, supra*.

Furthermore, your information indicates that you are organized and operated as an arm of the [REDACTED]. This is evidenced by your claim in your disseminated materials that you are the [REDACTED] of the [REDACTED] where supporters of the party from outside the [REDACTED] can give their contributions. Further evidence includes your substantial activities of promoting the [REDACTED] and supporting its political and other activities. By engaging in activities primarily in support of a political party, you are participating or intervening, directly or indirectly, in political campaigns on behalf of or in opposition to candidates for public office. These activities are strictly prohibited under section 501(c)(3) of the Code. Therefore, an organization engaging in any amount of political activity of this type, no matter how insignificant, will not qualify under section 501(c)(3). There is no requirement that it be substantial. See *United States v. Dykema, supra*.

As an organization that participates or intervenes, directly or indirectly, in political campaigns on behalf of or in opposition to candidates for public office, you are an "action" organization as defined by section 1.501(c)(3)-1(c)(3)(iii) of the regulations. As an action organization you are not operated exclusively for one or more exempt purposes pursuant to section 1.501(c)(3)-1(c)(3)(i). Also by supporting the SNP, you are serving private interests within the meaning of section 1.501(c)(3)-1(d)(1)(ii).

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code and you must file federal income tax returns.

Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

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If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201. The appropriate State Officials will be notified of this action in accordance with Code section 6104(c).

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
1111 Constitution Ave. NW
Washington, D.C. 20224
Attn: [REDACTED], T:EO:RA:T:3

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Robert C. Harper, Jr.
Manager, Exempt Organizations
Technical Group 3